

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2544 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

J D PARMAR

Versus

R N DAS

Appearance:

MR JAYANT PATEL for Petitioners
GOVERNMENT PLEADER for Respondent No. 1
MR KG VAKHARIA for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/03/2000

ORAL JUDGEMENT

In this petition under Article 226 of the
Constitution of India, the petitioners, six in number,

have challenged the notice dated 31.12.1988 (Annexure-A), and the order dated 13.3.1989 (Annexure-B) passed by the Development Commissioner setting aside the appointments of the petitioners on the posts of driver under the Sabarkantha District Panchayat.

2 By the order dated 31.12.1988 (Annexure-E) the petitioners were appointed by the Deputy Taluka Development Officer (Establishment) of the Sabarkantha District Panchayat on the posts of driver. Some of the unsuccessful candidates had challenged the said appointments before the Development Commissioner on the ground that the selection of the petitioners and others was not legal and was contrary to the rules and that eligible persons were left out. By the order dated 31.12.1988 the Development Commissioner granted ex parte ad interim stay of operation of the select list. After hearing the complainant and the District Panchayat, the Development Commissioner passed the impugned order setting aside the select list and cancelling appointment orders. It is the aforesaid orders which are challenged in this petition.

3 Various contentions are urged on behalf of the petitioners. It is, however, not necessary to deal with all such contentions as the petition deserves to be allowed on the short ground that although the petitioners were already appointed as drivers as per the order dated 31.12.1988 (Annexure-E), the petitioners were not given any opportunity of being heard before the Development Commissioner set aside the orders in their favour. Once the appointment orders were issued, the petitioners had a right to resume work and to get their salary. It was therefore not open to the Development Commissioner to set aside the appointment orders without giving the appointees an opportunity of being heard. On this short contention, the petition is allowed.

4 The impugned notice dated 31.12.1988 (Annexure-A), and the order dated 13.3.1989 (Annexure-B) are hereby quashed and set aside with a liberty to the respondents to pass appropriate orders in accordance with law after giving all the affected parties including the petitioners an opportunity of being heard.

5 Since the petitioners have been rendering services since 1989, of course, under the interim protection granted by this Court, it is hereby directed that in case final decision of the authorities is against the petitioners, the same shall not be implemented for a period of one month from the date of despatch of the

decision to the petitioners by registered post A/D.

6 Rule is made absolute to the aforesaid extent.
There shall be no order as to costs.

(mohd)